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09/741,205	12/19/2000	Allan Hunt	876.0001USU	7684

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EXAMINER

BEAMER, TEMICA M

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/741,205

Applicant(s)

HUNT, ALLAN

Examiner

Temica M. Beamer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14, 16-22, 24-30, 32-38, 40-46 and 48 is/are rejected.
- 7) ☒ Claim(s) 7, 15, 23, 31, 39 and 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-14, 16, 25-30, 32, 41-46 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenthal, U.S. Patent No. 5,838,140.

Regarding claims 9, 25 and 41, Rosenthal discloses indicating extant battery life for a battery powered apparatus, the method comprising the steps of: (a) determining a first extant battery life value having a first confidence level during operation of an apparatus in a first mode; (b) generating a perceivable indication of said first battery life value; (c) determining a second extant battery life value having a second confidence level during operation of said apparatus in a second mode; and (d) generating a perceivable indication of said second battery life value after generating the perceivable indication of said first battery life value, wherein the second confidence level is higher

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than said first confidence level and said first mode places a greater current demand on the battery than the second mode (col. 4, line 37-col. 7, line 47).

Regarding claims 10, 26 and 42, Rosenthal discloses wherein the manner of indicating the second battery life value is different from the manner of indicating the first battery life value (col. 6, lines 23-54).

Regarding claims 11, 27 and 43, Rosenthal discloses wherein the first and second battery life values are indicated visually (col. 3, line 59-col. 4, line 3).

Regarding claims 12, 28 and 44, Rosenthal discloses wherein the first extant battery life value is determined on the basis of an average of a plurality of battery voltage readings (col. 6, lines 41-54).

Regarding claims 13, 29 and 45, Rosenthal discloses wherein the first extant battery life value is read from a lookup table in dependence on said average (col. 4, lines 44-61).

Regarding claims 14, 30 and 46, Rosenthal discloses wherein the second extant battery life value is determined on the basis of a plurality of time-spaced battery voltage readings (col. 4, lines 44-61).

Regarding claims 16, 32 and 48, Rosenthal discloses wherein the second extant battery life value is determined on the basis of a plurality of time spaced battery voltage readings and the first of said time spaced readings is used for calculating said average (col. 4, lines 62-67).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8, 17-22, 24, 33-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenthal.

Regarding claims 1, 17 and 33, Rosenthal discloses a method of indicating extant battery life, the method comprising the steps of: (a) initially determining a first extant battery life value having a first confidence level; (b) generating a perceivable indication of said first battery life value; (c) determining a second extant battery life value having a second confidence level; and (d) generating a perceivable indication of said second battery life value after generating the perceivable indication of said first battery life value, wherein the second confidence level is higher than said first confidence level and said determination of said first extant battery life value is completed before said determination of said second extant battery life value is completed (col. 4, line 37-col. 7, line 47).

Rosenthal, however, fails to disclose wherein the second duration is greater than the first duration. The examiner, however, believes that the above limitation would not render the claims patentable over the applied reference because such limitation depends on how long one would desire to measure without changing the scope of the invention in the applied reference.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Rosenthal for the purpose of increasing the accuracy of the extant battery life.

Regarding claims 2, 18 and 34, Rosenthal as modified discloses wherein the manner of indicating the second battery life value is different from the manner of indicating the first battery life value (col. 6, lines 23-54).

Regarding claims 3, 19 and 35, Rosenthal as modified discloses wherein the first and second battery life values are indicated visually (col. 3, line 59-col. 4, line 3).

Regarding claims 4, 20 and 36, Rosenthal as modified discloses wherein the first extant battery life value is determined on the basis of an average of a plurality of battery voltage readings (col. 6, lines 41-54).

Regarding claims 5, 21 and 37, Rosenthal as modified discloses wherein the first extant battery life value is read from a lookup table in dependence on said average (col. 4, lines 44-61).

Regarding claims 6, 22 and 38, Rosenthal as modified discloses wherein the second extant battery life value is determined on the basis of a plurality of time-spaced battery voltage readings (col. 4, lines 44-61).

Regarding claims 8, 24 and 40, Rosenthal as modified discloses wherein the second extant battery life value is determined on the basis of a plurality of time spaced battery voltage readings and the first of said time spaced readings is used for calculating said average (col. 4, lines 62-67).

***Allowable Subject Matter***

6. Claims 7, 15, 23, 31, 39 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brink et al, U.S. Patent No. 6,114,838, discloses a battery capacity test method and apparatus.


Lauritsen et al, U.S. Patent No. 5,570,025, discloses an annunciator and battery supply measurement system for cellular telephones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Temica M. Beamer  
Primary Examiner  
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December 23, 2004